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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,335	06/04/2001	Hikmat Hojeibane	JJI-52	8853

27777 7590 03/24/2004  
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NEW BRUNSWICK, NJ 08933-7003

EXAMINER

JACKSON, SUZETTE JAMIE

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/874,335

Applicant(s)

HOJEIBANE, HIKMAT

Examiner

Jackson J Suzette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10-13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 4-8, 10-13 and 15 is/are allowed.
- 6) ☒ Claim(s) 3 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                            |                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>15-16</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> .           |

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### DETAILED ACTION

1. Applicant's RCE dated 9/12/03 has been received in application serial number 09/874,335. Claims 1, 9, and 14 are canceled. The filing date of 2/24/99 for patent number 6,258,116 will be utilized,

#### *Priority*

2. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional applications upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 16-18 of this application. There is no support in application numbers (60/024,110; 60/017,415; 60/017,479; 60/010,686) for **"hooks or for a connection that is different than the strut shape"**. There is also no support for the "hooks or ball and socket arrangements" in patents 6,017,363 filed 2/24/98 or 5,938,682 filed 9/22/97.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Goicoecchea et al. 5,683,450. Goicoecchea et al. discloses the invention as claimed comprising: A bifurcated stent (10) with a proximal tubular section (12); a first distal tubular section (16), wherein the first distal tubular section is connected to the proximal section by connector members; and a second distal tubular section (18) wherein the first and second distal tubular sections are attached together at their proximal ends by a plurality of flexible hooks (43) arranged around the second distal tubular section circumference (see col. 10, lines 36-39, col. 11, lines 39-44).

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Penn et al. 5,906,640. A bifurcated stent (104) with a proximal tubular section (103); a first distal tubular section (105), wherein the first distal tubular section is connected to the proximal section by connector members (107 struts); a second distal tubular section wherein the shape of the connection (108; 111, 112) is different than the strut shape of the proximal and distal sections; however Penn et al. does not specify that the first and second distal tubular sections are welded together at their proximal ends. It would have been obvious to one having ordinary skill in the art at the time the invention was made to weld or modify the attachment of first and second legs

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because Penn et al. teaches spot welding (col. 8, lines 6-10) as a means attachment to the bifurcated device. Applicant has not disclosed that welding of the sections at the proximal ends solves any stated problem or is for any particular purpose. Accordingly the use of welds at the proximal ends is deemed to be a design consideration which fails to patentably distinguish over the prior art of Penn et al.

#### *Allowable Subject Matter*

7. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 2, 4-5, 6-8, 10-13, 15 are allowed.

#### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brandt et al. 6,673,107 ; Zarbatany et al. 6,610,087 ; Shaolian et al. 6,508,835 ; Dubrul 6,258,115 ; and Dible 6,183,509; Goicoechea et al. 5,683,450; all show related material.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 703-308-6516.

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11. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
Suzette J. Jackson  
16 March 2004

Continuation of Attachment(s) 6). Other: The drawing objection is detailed in paper no. 11.